

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 631 of 1999

in

CIVIL APPLICATION No 2692 of 1999

with

LETTERS PATENT APPEAL NO. 688 of 1999

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR.K.G.BALAKRISHNAN and
MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAJESH B BHATIA

Versus

DINESHBHAI A THAKORE

Appearance:

L.P.A. NO. 631 of 1999

MR MEHUL SHARAD SHAH for Appellant
MR MUKUL SINHA for Respondent No. 1
MR. S.N. SHELAT, Addl. Advocate General with Mr.
Mukesh Patel, AGP for respondent No. 2.

L.P.A. NO. 688 of 1999

MR. S.N. SHELAT, Addl. Advocate General with Mr.

Mukesh Patel, AGP, for the appellant.

MR. MUKUL SINHA for respondent No. 1.

CORAM : CHIEF JUSTICE MR.K.G.BALAKRISHNAN and

MR.JUSTICE R.K.ABICHANDANI

Date of decision: 10/05/99

ORAL JUDGEMENT (per K.G. Balakrishnan, C.J.)

In both these appeals interim orders passed by the learned Single Judge in Civil Application No. 2692 of 1999 in Special Civil Application No. 9579 of 1998 are challenged. The first respondent herein is the Sarpanch of Thaltej Gram Panchayat. He was removed from the office of Sarpanch by the order passed under Section 57(1) of the Gujarat Panchayats Act, 1993 (the Act for short). The first respondent challenged the order in appeal under Section 57(3) of the Act and the appeal was dismissed and the order of removal was confirmed. Aggrieved by the same the first respondent filed the Special Civil Application on 16.11.1998. The learned Single Judge before whom the Special Civil Application came for admission did not grant any stay of the order passed against the first respondent. The first respondent thereafter moved a Civil Application before the learned Single Judge and prayed that in case no stay is granted, he would not be able to function as Sarpanch and then he prayed for urgent orders. The matter was heard and the impugned order was passed. This order is challenged in Letters Patent Appeal by the State Government and also by the sixth respondent in the Special Civil Application who was the person originally filed a complaint against the first respondent.

We heard the Addl. Advocate General appearing for the state and also the learned counsel for the appellant in L.P.A. No. 631 of 1999 and the learned counsel for the first respondent. There were six charges against the first respondent. Two authorities held that these charges were proved. The learned counsel for the first respondent seriously contends that all these charges were not proved and there was violation of principles of natural justice in the proceedings before the first authority as well as in the appellate authority. The learned Single Judge has held that there was violation of the principles of natural justice as in the instant case the first respondent was not given copies of all the relevant papers on which the authorities relied on. Incidentally the findings are also entered by the learned Single Judge regarding the merit

of the matter. We do not propose to go into the merit of the matter at this stage as the main matter has been ordered to be listed for final disposal on 30.6.1998.

Having regard to the facts and circumstances of the case and also considering the fact that two authorities have found against the first respondent, it is just and proper that the first respondent may continue as Sarpanch but he would not conduct the proceedings as Sarpanch and Upa-Sarpanch Mr. Manubhai F. Patel shall conduct the proceedings of the panchayat till Special Civil Application No. 9579 of 1998 is finally disposed of. In view of the special circumstance of this case, the learned Single Judge before whom Special Civil Application No. 9579 of 1998 would come up for hearing shall endeavour to dispose of the same at the earliest.

(K.G. BALAKRISHNAN, C.J.)

(R.K. ABICHANDANI, J)

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